

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1335 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KISHOREBHAI KARSANBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MR BM MANGUKIYA for Petitioner

MR D.J.DESAI,A.G.P.for respondent No.1 & 5.

CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 21/01/97

ORAL JUDGEMENT

Rule.

Though the respondents are duly served, the respondent No.2 who is the contesting party has not come forward to challenge and dispute claim of the petitioner by filing any reply though show cause notice is served on him. I have heard the petitioner's advocate at length as well as the Additional Govt. Pleader. I, therefore, proceed to dispose of this petition finally by this order as the other respondents have not come forward though

duly served to challenge the claim of the petitioner.

2. The petitioner has filed the present petition to challenge the nomination of respondent No.2 by the State Government under Section 81 of the Gujarat Co-operative Societies Act, 1961 as one of the member of the Board of Directors of respondent No.3. The petitioner has produced the government policy as declared by the government resolution dated 4-1-1993. The said government policy declares that a person who happen to be a defaulter in payment of dues of any Co-operative Society need not be nominated by the Government by exercising the powers under Section 81 of the Gujarat Co-operative Societies Act, 1961. Petitioner has produced on record a document to show that the respondent No.2 was a defaulter in payment of his dues of Pagina Muvada Seva Sahakari Mandali. Now in view of the production of the said document it is quite clear that the respondent No.2 was a defaulter when he was nominated by the respondent No.1 as one of the member of the Board of Directors of respondent No.3 and said nomination is contrary to the policy laid down by the Government as declared by the Government Resolution of 4-1-93. Under the Co-operative Societies Act a member of Co-operative Society who is defaulter is not also entitled to contest the election. Therefore, in the circumstances, the nomination of respondent No.2 by the respondent No.1 will have to be quashed by allowing this petition. I, therefore, allow this petition and it is hereby declared that the nomination of respondent No.2 by respondent No.1 as a member of Board of Directors of respondent No.3 stands quashed and set aside but in the circumstances, the parties are directed to bear their own cost. Rule is made absolute accordingly.

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